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10/032,116	12/21/2001	Rod Walsh	4208-4041	7018

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EXAMINER
VU, THONG H

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/032,116	WALSH ET AL.
	Examiner	Art Unit	
	Thong H. Vu	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 February 2006</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 December 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

1.   Claims 1-23 are pending.

Response to Arguments

2.   Applicant's arguments filed 2/02/06 have been fully considered but they are not persuasive to overcome the prior art.

A. **The 112 Rejection**:

As per claims 1,6,14,18,21 and 23 applicant argues the Fig 1 discloses the multicast system 100 selecting data from a network 104.

Examiner points out the multicast system 100 did not included in claim language. Thus, the rejection is sustained.

B.**The 103 Rejection**:

B-1. As per claims 1,6,14,18,21 applicant argues the prior art does not teach or suggest "selecting data to be sent to multicast groups based on a predetermined policy".

Examiner points out the prior art taught "the filtering agent 600 filtering or selecting data to be sent to multicast channels [Mark, Fig 6] and a filter represented for a predetermined policy/rule.

B-2. As per claims 1 and 23, applicant argues the prior art does not teach or suggest "selecting data to be **sent** (*emphasis added*) over shared multicast channel".

Examiner points out the prior art taught "the document are sent to the client terminal" [Mark, col 4 lines 36-62].

B-3. As per claims 6,14,18,21 applicant argues the prior art does not teach or suggest "select data to be sent based upon said user demand".

Examiner points out the prior art taught the documents were transmitted (or sent) in response to a local user's request (or demand) [Mark, col 4 liens 10-17].

c. **The 102 Rejection**:

A. As per claims 1,6,14,18,21 and 23 applicant argues the prior art (Powell) does not teach or suggest "selecting data to be sent over shared multicast channel".

Examiner points out the prior art taught select web objects [Powell, 009,0150] with multicast channels [Powell, 0052].

B. Applicant argues the prior art does not teach the local proxy server.

Examiner finds out the prior art taught each local proxy server [Powell, 0047].

Thus, the rejection sustained.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention lacks patentable utility. It was unclear what device performs the selecting/ sending data.

the disclosed invention is inoperative and therefore lacks utility. It was unclear what device performs the selecting/ sending data.

Claim Rejections - 35 USC § 112

3.   Claims 1,6,14,21,23 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. It was unclear what (or from where) the

method for selecting/ sending data to client devices occurs.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5,23 are rejected under 35 U.S.C. 102(e) as being participate by Marks

et al [Marks, 6,463,447 B1].

4.   As per claim 23, Marks discloses An apparatus for improving a user's perceived

access speed to data network content, comprising:

a memory having program code stored therein [Mark, memory, 430, Fig 4, col 8

lines 27-42]; and

a processor connected to said memory for carrying out instructions in

accordance with stored program code; wherein said program code, when executed by

said processor [Marks, a server connects to Internet, col 3 line 44-col 4 line 17], causes said processor to perform the steps of:

a) receiving a user input request for data from a data network [Marks, HTTP request, col 4 lines 36-62]; and

b) determining whether said requested data is to be retrieved from the local cache or the data network [Marks, determine whether the document requested is stored locally or Web cache or other storage device, col 15 line 65-col 16 line 8]; and

c) retrieving said requested data for user consumption [Marks, return to the original request terminal, col 19 lines 35-40; col 22 line 64-col 24 line 2].

5.   As per claim 1, Marks discloses A method for increasing perceived access speed to content available from a data network, comprising:

selecting data to be sent to multicast groups based on a predetermined policy [Marks, control may proceed to step 913 and select from a list of active multicast channels to transmit the document, col 19 lines 54-67; multicast channels, col 7 lines 4-24; the master proxy server 380/ router/firewall 310, Fig 3]; and sending the data over the multicast channel [Marks, multicast channels, col 7 lines 4-24].

6.   As per claim 2, Marks discloses data network is an Internet, an extranet, an intranet, a VPN, or a LAN [Marks, Internet, col 3 lines 20-30].

7.   As per claim 3, Marks discloses the predetermined policy is selecting data based on information from an agent that monitors web hits from the system clients [Marks, HIT notification, col 16 lines 8-15].

8.   As per claim 4, Marks discloses the predetermined policy is to send promotional content such as a bundle of computer executable game files [Marks, filtering agent, col 12 lines 27-65].

9.   As per claim 5, Marks discloses the predetermined policy is that the group data is taken directly from a unicast stream [Marks, unicast and multicast connections, col 5 lines 23-33].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks et al [Marks, 6,463,447 B1] in view of Willis et al [Willis 6,385,647 B1].

10.   As per claim 6, Marks discloses A method for increasing perceived access speed to content available from a data network, comprising:

sending the data over the multicast channel [Marks, HTTP request, col 4 lines 36-62];

receiving the data; filtering the data [Marks, dynamically filtering documents transmitted on one or more multicast channels, col 2 lines 16-23];

storing the filtered data in a local cache [Marks, storing documents received, col 4 lines 10-15]; and

retrieving the filtered data from the cache for user consumption [Marks, return to the original request terminal, col 19 lines 35-40; col 22 line 64-col 24 line 2].

However Marks does not explicitly detail selecting data to be sent over a **shared** multicast channel;

In the same endeavor, Willis discloses a system for selectively routing data via either network that support Internet or via satellite including the shared IP multicast [Willis, a shared multicast distribution tree, col 7 lines 25-35]

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to take advantage the shared multicast channels as taught by Willis into the Marks apparatus in order to utilize the multicast network. Doing would provide a maximum the available channel to distribute information via Internet.

11.   Claims 14,18,21 contain the similar limitations set forth in claim 6. Therefore claims 14,18,21 are rejected for the same rationale set forth in claim 6.

12.   As per claim 7, Marks-Willis disclose selecting comprises selecting data based on predetermined policies [Marks, dynamically filtering documents transmitted on one or more multicast channels, col 2 lines 16-23].

13.   As per claim 8, Marks-Willis disclose the predetermined policy is to send the top

100 web file downloads [Marks, dynamically filtering documents transmitted on one or

more multicast channels, col 2 lines 16-23].

14.   As per claim 9, Marks-Willis disclose the predetermined policy is to send

promotional content such as a bundle of computer executable game files [Marks,

dynamically filtering documents transmitted on one or more multicast channels, col 2

lines 16-23].

15.   As per claim 10, Marks-Willis disclose receiving the data by a reception agent

[Marks, dynamically filtering documents transmitted on one or more multicast channels,

col 2 lines 16-23].

16.   As per claim 11 Marks-Willis disclose storing the data after it has been selected

[Mark, cache and select, col 10 lines 10-65].

17.   As per claim 12, Marks-Willis disclose filtering the data includes filtering the data

based on a user configured profile [Marks, dynamically filtering documents transmitted

on one or more multicast channels, col 2 lines 16-23].

18.   As per claim 13, Marks-Willis disclose sending the selected content to a shared

cache [Willis, a shared multicast distribution tree, col 7 lines 25-35].

19.   As per claims 15,19 Marks-Willis disclose some clients are in a passive state as

inherent feature of network client.

20.   As per claims 16,20 Marks-Willis disclose storing the data after it has been

selected [Willis, identifies data, stored and forward, col 16 lines 57-67].

21.   As per claim 17, Marks-Willis disclose the act of selecting data to be sent over a

shared multicast channel comprises selecting data based on web hits [Marks, Hit

notification, col 16 lines 8-15].

22.   As per claim 22, Marks-Willis disclose measuring user demand includes using an

agent to monitor the web hits of the system clients [Marks, dynamically filtering

documents transmitted on one or more multicast channels, col 2 lines 16-23].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being participate by Powell et al [Powell, US 2002/0073167 A1].

23.   As per claim 1, Powell discloses A method for increasing perceived access speed to content available from a data network, comprising:

selecting data to be sent to multicast groups based on a predetermined policy [Powell, select digital objects, multicast, servers, policies, 0010-0017]; a customized priority determination according to local demand, 0045]; multicast transmission of web pages, utilize a local policy and a priority determination program, 0047]; and sending the data over the multicast channel [Powell, multicast packets/objects are transmitted, 0126,0163].

24.   As per claim 2, Powell discloses data network is an Internet, an extranet, an intranet, a VPN, or a LAN [Powell, Internet 20, intranet 50, Fig 2].

25.   As per claim 3, Powell discloses the predetermined policy is selecting data based on information from an agent that monitors web hits from the system clients [Powell, monitors the object demand [0073]; a global demand monitoring module, 0082,0143].

26.   As per claims 4, 9 Powell discloses the predetermined policy is to send promotional content such as a bundle of computer executable game files as inherent

feature of policies [Powell, a customized priority determination according to local

demand, 0045].

27.   As per claim 5, Powell discloses the predetermined policy is that the group data

is taken directly from a unicast stream [Powell, unicast, 0034].

28.   As per claim 6, Powell discloses A method for increasing perceived access

speed to content available from a data network, comprising:

        sending the data over the multicast channel [Powell, transmitting digital objects

[0011,0012,0015,0017 et seq];

        receiving the data; filtering the data [Powell, filter, 0041,0092,0093,0171];

        storing the filtered data in a local cache [Powell, local cache, 0014-0016 et seq];

        retrieving the filtered data from the cache for user consumption [Powell, local

cache retrieve and filter, 00161,171,180].

        selecting data to be sent over a shared multicast channel [Powell, multicast

transmission, share one common protocol, 0141];

29.   Claims 14,18,21 contain the similar limitations set forth in claim 6. Therefore

claims 14,18,21 are rejected for the same rationale set forth in claim 6.

30.   As per claim 7, Powell discloses selecting data based on predetermined policies

[Powell, select digital objects, multicast, servers, policies, 0010-0017; multicast

transmission of web pages, utilize a local policy and a priority determination program, 0047].

31.   As per claim 8, Powell discloses the predetermined policy is to send the top 100 web file downloads [Powell, extracted from Internet, 0029,0043, et seq].

32.   As per claim 10, Powell discloses receiving the data by a reception agent [Powell, local proxy 60, Fig 2].

33.   As per claims 11,16,20 Powell discloses storing the data after it has been selected [Powell, filter, 0041,0092,0093,0171].

34.   As per claim 12, Powell discloses filtering the data includes filtering the data based on a user configured profile [Powell, filter, 0041,0092,0093,0171; utilize a local policy and a priority determination program,0047].

35.   As per claim 13, Powell discloses sending the selected content to a shared cache [Powell, 0006, et seq.].

36.   As per claims 15,19 Powell discloses some clients are in a passive state as inherent feature of network client.

37.   As per claim 17, Powell discloses the act of selecting data to be sent over a

shared multicast channel comprises selecting data based on web hits [Powell, multicast

transmission, share one common protocol, 0141,0143];

38.   As per claim 22, Powell discloses measuring user demand includes using an

agent to monitor the web hits of the system clients [Powell, monitors the object demand

[0073]; a global demand monitoring module,0082].

39.   As per claim 23, Powell discloses An apparatus for improving a user's perceived

access speed to data network content, comprising:

        a memory having program code stored therein [Powell, local cache database, Fig

1]; and a processor connected to said memory for carrying out instructions in

accordance with stored program code [Powell, local proxy server, Fig 1]; wherein said

program code, when executed by said processor, causes said processor to perform the

steps of:

        a) receiving a user input request for data from a data network [Powell, 0037,

0070,0076, et seq.]; and

        b) determining whether said requested data is to be retrieved from the local

cache or the data network [Powell, local cache database, Fig 1]; and

        c) retrieving said requested data for user consumption [Powell, user request and

retrieve, 0176,0177, claim 22].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by

Mangipudi et al [Mangipudi 6,728,748 B1].

40.   As per claim 1, Mangipudi discloses A method for increasing perceived access

speed to content available from a data network, comprising:

selecting data to be sent to multicast groups based on a predetermined policy

(i.e.: rule, policy); and sending the data over the multicast channel [Mangipudi, a

plurality of selectable load distribution algorithm, col 4 lines 36-65; multicast channels

servers, the policy engine, col 12 lines 1-19].

41.   As per claim 2, Mangipudi discloses data network is an Internet, an extranet, an

intranet, a VPN, or a LAN [Mangipudi, Internet, intranet, Fig 3].

42.   As per claim 3, Mangipudi discloses the predetermined policy is selecting data

based on information from an agent that monitors web hits from the system clients

[Mangipudi, monitors the total hit, col 11 lines 48-65, Fig 3].

43.   As per claims 4, 9 Mangipudi discloses the predetermined policy is to send

promotional content such as a bundle of computer executable game files as inherent

feature of policies [Mangipudi, content type, col 5 lines 1-15].

44.   As per claim 5, Mangipudi discloses the predetermined policy is that the group

data is taken directly from a unicast stream (i.e.: direct address) [Mangipudi, the server

received the packets, process it and respond back directly to the client, col 8 lines 1-18].

45.   As per claim 6, Mangipudi discloses A method for increasing perceived access

speed to content available from a data network, comprising:

        sending the data over the multicast channel; receiving the data; filtering the data];

storing the filtered data (i.e.: rule, policy) in a local cache [Mangipudi, memory

utilization) [col 5 lines 10-15]; retrieving the filtered data from the cache for user

consumption [Mangipudi, a plurality of selectable load distribution algorithm, col 4 lines

36-65; multicast channels servers, the policy engine, col 12 lines 1-19];

        selecting data to be sent over a shared multicast channel [Mangipudi, load

sharing, col 9 lines 20-44];

46.   Claims 14,18,21 contain the similar limitations set forth in claim 6. Therefore

claims 14,18,21 are rejected for the same rationale set forth in claim 6.

47.   As per claim 7, Mangipudi discloses selecting data based on predetermined

policies [Mangipudi, a plurality of selectable load distribution algorithm, col 4 lines 36-

65].

48.   As per claim 8, Mangipudi discloses the predetermined policy is to send the top

100 web file downloads as inherent feature of policy engine configuration [Mangipudi,

the policy engine, col 12 lines 1-19].

49.   As per claim 10, Mangipudi discloses receiving the data by a reception agent

[Mangipudi, the intelligent agent, col 16 lines 7-38].

50.   As per claims 11,16,20 Mangipudi discloses storing the data after it has been

selected [Mangipudi, the information is stored in the router's table, col 12 lines 1-19].

51.   As per claim 12, Mangipudi discloses filtering the data includes filtering the data

based on a user configured profile [Mangipudi, a plurality of selectable load distribution

algorithm, col 4 lines 36-65].

52.   As per claim 13, Mangipudi discloses sending the selected content to a shared

cache [Mangipudi, load sharing, col 9 lines 20-44].

53.   As per claims 15,19 Mangipudi discloses some clients are in a passive state as

inherent feature of network client.

54.   As per claim 17, Mangipudi discloses the act of selecting data to be sent over a

shared multicast channel comprises selecting data based on web hits [Mangipudi,];

55.   As per claim 22, Mangipudi discloses measuring user demand includes using an

agent to monitor the web hits of the system clients [Mangipudi, monitors the total hit, col

11 lines 48-65, Fig 3].

56.   As per claim 23 contains the similar limitations set forth in claim 1. Therefore

claim 23 is rejected for the same rationale set forth in claim 1.

        Any inquiry concerning this communication or earlier communications from the
examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-
272-3904. The examiner can normally be reached on Monday-Thursday from 6:00AM-
3:30PM.
        If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, *Andrew Caldwell*, can be reached at (571) 272-3868. The fax number for the
organization where this application or proceeding is assigned is 571-273-8300
        Information regarding the status of an application may be obtained from the
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Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Primary Examiner
Art Unit 2142